

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION


GERALD YALE DAVID, #547341	§	
VS.	§	CIVIL ACTION NO. 9:04cv5
TDCJ-ID, ET AL.	§	

ORDER DENYING MOTION TO DISMISS

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Harry W. McKee. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

ORDERED that the defendants' motion to dismiss the complaint (docket entry numbers 31 and 55) is **DENIED**.

SIGNED this the 16 day of November, 2005.



Thad Heartfield
United States District Judge